



## STAFF REPORT

DATE: February 7, 2018

**CONSENT**

ITEM #: 12

**TO:** City Council

**FROM:** Greg Malmquist, Fire Chief

**AGENDA ITEM:** DONATION POLICY FOR THE CITY of LAKE ELMO

**REVIEWED BY:** Kristina Handt, City Administrator

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### **BACKGROUND:**

In 2016 a new law went into effect that allows cities to donate surplus property to non-profits. To date the City of Lake Elmo has not had a Donation Policy. The proposed Policy and Donation Form are from an approved template from the League of MN Cities.

### **ISSUE BEFORE COUNCIL:**

Should the Council approve the “City of Lake Elmo, Minnesota, Policy for Donation of Surplus Equipment to a Nonprofit Organization”?

### **PROPOSAL DETAILS/ANALYSIS:**

Before surplus equipment can be donated, a city must adopt a policy on how it will determine what equipment is surplus eligible for donation and how it will determine which nonprofit organizations may receive donations. In addition, the policy must address the obligations of the local government to disclose to the nonprofit that the surplus equipment may be defective and cannot be relied upon for safety purposes.

The policy lays out the procedure for donating and the form to be signed by the non-profit includes a disclaimer so that these provisions of the law are met.

### **FISCAL IMPACT:**

None

### **OPTIONS:**

- 1) Approval Policy
- 2) Do not approve the policy

### **RECOMMENDATION:**

If removed from the consent agenda:

***“Motion to approve the City of Lake Elmo, Minnesota, Policy for Donation of Surplus Equipment to a Nonprofit Organization.”***

### **ATTACHMENTS:**

- City Lake Elmo, Minnesota, Policy for Donation of Surplus Equipment to a Nonprofit Organization



City of Lake Elmo, Minnesota

## Policy for Donation of Surplus Equipment to a Nonprofit Organization

### Purpose

The purpose of this Policy is to establish procedures for the Donation of Surplus Equipment by the City to a Nonprofit Organization as required by Minnesota Statute § 471.3459.

### Scope

This policy applies to all City departments that generate Surplus Equipment and governs the actions of all City employees and officials.

### Definitions

“City” means the City of Lake Elmo, Minnesota.

“City Council” means the governing body of the City.

“Donation” means to contribute, donate or give Surplus Equipment at no cost to a Nonprofit Organization that serves a public purpose and benefits its community as a whole.

“Eligible Organization” means a Nonprofit Organization serving one or more of the following functions: cultural, historical, educational, safety, social services, environmental or economic.

“Fair Market Value” means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all relevant facts.

“Nonprofit Organization” means an organization formed under Section 501(c)(3) of the Internal Revenue Code.

“Policy” means this Policy adopted by the City Council.

“Surplus Equipment” means equipment used by the City’s public works department, and cellular phones and emergency medical and firefighting equipment that is no longer needed by the City because it does not meet industry standards for emergency medical services, police, or fire departments or has minimal or no resale value.

“Surplus Equipment Form” means the form attached as Exhibit I to this Policy that must be filled out by a Nonprofit Organization requesting a Donation of Surplus Equipment.

## Procedure

The City shall determine all Surplus Equipment and may offer it for Donation in conformance with the following guidelines:

1. Identify Surplus Equipment. Department supervisors are responsible for monitoring their equipment and shall identify and report all Surplus Equipment to the City Administrator on at least an annual basis.
2. Determine the Fair Market Value of Surplus Equipment. The City Administrator shall work with City staff to determine the Fair Market Value of the Surplus Equipment.
3. City Council Declaration. The City Administrator will forward a list of the Surplus Equipment with each item's Fair Market Value to the City Council who shall approve or deny the Surplus Equipment as eligible for Donation. The City has no obligation to make a Donation of Surplus Equipment. Surplus Equipment that is not donated may be sold, recycled or discarded in the discretion of the City Administrator.
4. Donation. After the City Council has determined the Surplus Equipment is eligible for Donation, the City Administrator is responsible for coordinating the Donation of the Surplus Equipment in accordance with the terms of this Policy.
5. Transfer between Departments. All Surplus Equipment must first be considered for transfer between departments for the benefit of the City.
6. Advertisement. Surplus Equipment shall be posted as eligible for Donation on the City's website. The City may also use other reasonable means to notify Eligible Organizations about the availability of Surplus Equipment. The City shall wait at least 30 days after advertising Surplus Equipment before approving any Donation.
7. Surplus Equipment Form. Eligible Organizations interested in Surplus Equipment shall fill out a Surplus Equipment Form and submit the form to the City Administrator.
8. Approval of Donation. If the Surplus Equipment has a Fair Market Value less than \$500.00, the City Administrator shall approve the Donation to an Eligible Organization, subject to review by the City Council. If the Surplus Equipment has a Fair Market Value greater than \$500.00, the City Council must approve the donation by a majority vote of the City Council.
9. Prioritization of Donations. If more than one Eligible Organizations requests a Donation for the same Surplus Equipment, the City shall consider factors it deems relevant including how the Surplus Equipment will be used, the benefit to the Eligible Organization, the impact on the City, how the Donation will accomplish goals of the City Council, and any previous Donation to the Eligible Organization.
10. Conflict of Interest. All City employees and officials are prohibited from taking possession of any Surplus Equipment on behalf of an Eligible Organization.

11. As Is. A Donation of Surplus Equipment is made “as is” with no warranty, guarantee or representation of any kind, express or implied, as to the condition, utility, or usability of the Surplus Equipment offered. The Surplus Equipment may be defective and cannot be relied upon for safety purposes.

12. Title. The City Administrator shall cause any title or other ownership documents to be transferred to the Eligible Organization at the time of transfer. Any fees required to transfer the Surplus Equipment are the responsibility of the Eligible Organization.

13. Transportation. In the Surplus Equipment Form, the Eligible Organization must provide a detailed plan for transporting the Surplus Equipment from the City to the Eligible Organization. The Eligible Organization must pay all expenses associated with the transportation of the Surplus Equipment.

14. Delegation. The City Administrator may delegate specific responsibilities for implementing this Policy.

15. Documentation. The City Clerk shall document the Donation of all Surplus Equipment and shall keep such records in accordance with the City’s Records Retention Schedule.

16. Review of Policy. The City Administrator is responsible for maintaining and reviewing this Policy. Any changes to this Policy must be approved by the City Council.

**Exhibit I**  
Surplus Equipment Form

Organization Name: \_\_\_\_\_

Organization Address:

\_\_\_\_\_  
\_\_\_\_\_

Organization Website: \_\_\_\_\_

(Attach proof of status as a nonprofit corporation under Section 501(c)(3) of the Internal Revenue Code.)

Organization Purpose: \_\_\_\_\_

Point of Contact

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

City Surplus Equipment of Interest: \_\_\_\_\_

How will the requested Surplus Equipment benefit your organization?

\_\_\_\_\_

How do you plan to transport the surplus property from the City to your location?

\_\_\_\_\_

**DISCLAIMER OF WARRANTIES.** The City makes no agreement, warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or use of the Surplus Equipment by the recipient or any other user.

The recipient acknowledges the Surplus Equipment may be defective and that it cannot be relied upon for safety purposes. The recipient has a duty to inspect the Surplus Equipment before it is used for any purpose.

The recipient acknowledges that the City is not a manufacturer of the Surplus Equipment or a dealer therein; that the Surplus Equipment is being provided “as-is” and “with all faults,” it being

agreed and understood that all of the aforementioned risks are to be borne by the recipient or user of the Surplus Equipment.

In no event shall the City be liable for any damages in connection with or arising out of the recipient's or any other person's or entity's use of the Surplus Equipment.

I acknowledge that the Donation of any Surplus Equipment to my organization is subject to the City's Policy for Donation of Surplus Equipment to a Nonprofit Organization.

I have authority to request a Donation from the City and to bind my organization to the terms of this form.

Signature of Applicant \_\_\_\_\_

Date \_\_\_\_\_